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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,584	12/04/2003	Mark E. Tuttle	076838-057911/RE	2224
64494 7590 04/09/2009 GREENBERG TRAUIG, LLP (SV) IP DOCKETING 2450 COLORADO AVENUE SUITE 400E SANTA MONICA, CA 90404				
EXAMINER				
FRANKLIN, JAMARA ALZAIDA				
ART UNIT		PAPER NUMBER		
2876				
MAIL DATE		DELIVERY MODE		
04/09/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/729,584

**Applicant(s)**

TUTTLE ET AL.

**Examiner**

JAMARA A. FRANKLIN

**Art Unit**

2876

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 March 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15, 17-32 and 64-81 is/are pending in the application.
- 4a) Of the above claim(s) 65-81 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-15, 17-32, and 64 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 65-81 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/808)
- Paper No(s)/Mail Date 3/03/09
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/03/09 has been entered.

### ***Election/Restrictions***

2. Newly submitted claims 65-81 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Inventions are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 65-81 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Non-elected claims should be cancelled by applicant in response to the instant office action.

*Allowable Subject Matter*

3. Claims 1-15, 17-32, and 64 are allowed.

4. The following is an examiner's statement of reasons for allowance:

although art is known which discusses data storing devices having an integrated circuit and a conductor supported on a housing portion, the prior art of record fails to teach or fairly suggest either alone or in combination thereof:

regarding claim 1, a data storing device comprising:

a housing including first and second opposed portions;

an integrated circuit coupled to the first portion;

a battery supported by the first portion and having first and second terminals, the first terminal being coupled to the integrated circuit; and

connection circuitry coupling the second terminal of a battery to the integrated circuit to complete a circuit, the connection circuitry including a conductor supported by the second portion of the housing and movable with the second portion of the housing;

regarding claim 7, a data storing device wherein the first and second housing portions enclose and hermetically seal the integrated circuit and the battery when the first and second housing portions are in the mated position;

regarding claims 19 and 25, a portable data storing device wherein a conductor completes a circuit and supplies electrical power to an integrated circuit when the first and second portions of the housing are sealed together and does not complete the circuit or supply the electrical power to the integrated circuit when the first and second portions are not sealed together;

regarding claim 23, a portable data storage device comprising:

a first battery disposed between first and second housing members, a first electrode of the first battery contacting a first power conductor on the first housing member;

a second battery disposed between the first and second housing members, a first electrode of the second battery contacting a second power conductor on the first housing member; and

an integrated circuit disposed on a side of the first housing member configured to be mated to the second housing member; and

regarding claim 26, a passive radio frequency identification device comprising:

a single integrated circuit having substantially all circuitry formed on a surface of the integrated circuit facing a first film, the integrated circuit being coupled to a first dipole antenna and including memory to store an identification number, a receiver coupled to the first dipole antenna to receive and decode data from a spread spectrum signal in the range of approximately 200MHz to 10GHz, control logic to perform a comparison between the received data and at least a portion of the identification number, and a transmitter coupled to the first dipole antenna to transmit a response based on the comparison.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMARA A. FRANKLIN whose telephone number is (571)272-2389. The examiner can normally be reached on Monday through Friday 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jamara A. Franklin/  
Primary Examiner, Art Unit 2876

JAF  
April 07, 2009